

# Notice of Allowability

Application No.  
**09/357,277**

Applicant(s)  
**Markham et al.**

Examiner  
**Robert P. Swiatek**

Group Art Unit  
**3643**



All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to amendment filed 7 Oct. 1999; telephone interview of 15 Oct. 1999

☒ The allowed claim(s) is/are 1-3, 5-13, and 16-21

☒ The drawings filed on 20 Jul 1999 are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☐ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☐ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. \_\_\_\_\_

☐ including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☒ Interview Summary, PTO-413

☒ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☒ Examiner's Statement of Reasons for Allowance

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Publishing Division

*Robert P. Swiatek*  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 333 3643

Art Unit: 3643

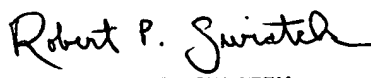
An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Gary D. Fields on 15 October 1999.

The application has been amended as follows: In claim 5, line 4, the word --individual-- has been inserted after "different"; in claim 17, line 1, "for" has been deleted, in lines 8, 9, the phrase "sized to be" has been deleted; in claim 18, line 4, "treat is" has been changed to --treats are--; in claim 21, line 1, "for" has been deleted, in line 8, the phrase "sized to be" has been deleted.

This case is being passed to issue with allowed claims 1-3, 18, 5-9, 19, 10, 11, 20, 12, 13, 16, 17, 21, renumbered as claims 1-18.

RPS: ©703/308-2700  
18 October 1999--d.13

  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 333 3643

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Art Unit: 3643

The following is an examiner's statement of reasons for allowance: The claims in this application have been allowed because the prior art does not disclose a pet toy product including a molded body member having a side wall of a substantially uniform thickness, and a plurality of recesses formed in the side wall, with edible treats wedged into the recesses such that resilient side surfaces of the recesses hold the treats therein. Various additional independent claims recite embodiments of the pet toy product, as well as a method of entertaining an animal using the product, none of which are anticipated or rendered obvious by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The references to Smith (848,136 and 1,031,095) and Houghton et al. (5,343,828) have been cited to provide examples of pertinent prior art.

RPS: ©703/308-2700  
18 October 1999--d.13

*Robert P. Swiatek*  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 333 3643

FORM PTO-1449.

INFORMATION DISCLOSURE  
CITATION IN AN APPLICATION

(Use several sheets if necessary)

Docket Number  
F96.6 CIPCApplicant  
Joseph P. Markham

Filing Date

Sheet 1 of 2

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Application Number

09/357 277

NOV 19 1999

Group Art Unit

3643

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
RPS	1,022,113	4-1912	Smith	119	711	
RPS	1,149,170	08/10/15	Allis	—	—	04/26/15
RPS	1,534,964	4-1925	Kahnweiler	119	711	
RPS	2,194,736	03/26/40	de Bruler	—	—	11/03/38
RPS	2,610,851	09/16/52	Jones	119	709x	04/01/48
RPS	Des. 188,179	06/14/60	Tay	D12	2	08/28/59
RPS	3,104,648	09/24/63	Fisher	—	—	02/26/62
RPS	3,664,303	5-1972	Baensch	119	51.03	
RPS	3,871,334	03/18/75	Axelrod	—	—	12/03/73
RPS	3,899,607	08/12/75	Miller, et al.	426	285	09/10/73
RPS	4,032,665	06/28/77	Miller, et al.	426	104	05/15/75
RPS	4,513,014	04/23/85	Edwards	426	132	10/11/83
RPS	4,557,219	12/10/85	Edwards	—	—	10/26/84
RPS	4,802,444	2-1989	Markham, et al.	119	709x	
RPS	5,025,753	6-1991	Schneider	119	51.03	
RPS	Re. 34,352	08/24/93	Markham, et al.	119	710	01/08/91
RPS	5,536,007	7-1996	Snyder	119	709x	
RPS	5,553,570	9-1996	VanNatter III, et al.	119	709	
RPS	D 387,513	12-1997	Mauldin, Jr.	D30	160	
RPS	D 388,559	12-1997	Mauldin, Jr.	D30	160	
RPS	D 393,110	3-1998	Mauldin, Jr.	D30	16Q	
RPS	5,719,616	9-1998	McClung III	119	709	
RPS	5,813,366	9-1998	Mauldin, Jr.	119	710	

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

RPS	Jungle Talk International advertisement		
RPS	Buster Cube		
RPS	"Recipe for the <sup>Almost</sup> Perfect Dog" brochure		
EXAMINER	Robert P. Swiatek	DATE CONSIDERED	15 Oct. 1999
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP §609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.			

<b>Notice of References Cited</b>				Application No. <b>09/357,277</b>		Applicant(s) <b>Markham et al.</b>	
				Examiner <b>Robert P. Swiatek</b>		Group Art Unit <b>3643</b>	

U.S. PATENT DOCUMENTS						
*	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	
X	A	848,136	3-1907	Smith	119	711
X	B	1,031,095	7-1912	Smith	119	711
X	C	5,343,828	9-1994	Houghton et al.	119	51.03
	D					
	E					
	F					
	G					
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	I					
	J					
	K					
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	M					

FOREIGN PATENT DOCUMENTS						
*	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUBCLASS
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS		
*	DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
	U	
	V	
	W	
	X	

\* A copy of this reference is not being furnished with this Office action.  
(See Manual of Patent Examining Procedure, Section 707.05(a).)

## Interview Summary

Application No.  
**09/357,277**

Applicant(s)  
**Markham et al.**

Examiner  
**Robert P. Swiatek**

Group Art Unit  
**3643**



All participants (applicant, applicant's representative, PTO personnel):

(1) Robert P. Swiatek

(3) \_\_\_\_\_

(2) Mr. Gary D. Fields

(4) \_\_\_\_\_

Date of Interview 15 Oct 1999

Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☒ No. If yes, brief description:

Agreement ☒ was reached. ☐ was not reached.

Claim(s) discussed: 5, 17, 18, and 21

Identification of prior art discussed:

Smith (1,031,095)

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicants' representative authorized changes to the above claims in order to place them in better form for allowance and overcome several inconsistencies. See examiner's amendment.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Examiner Note: You must sign and stamp this form unless it is an attachment to a signed Office action.